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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2013-313

13 **SYBIL MICHELLE SHAW, AKA SYBIL**
14 **MICHELLE KINION**
15 **14560 M 89**
Augusta, MI 49012

DEFAULT DECISION AND ORDER

16 **Registered Nurse License No. 472693**

[Gov. Code, §11520]

17 Respondent.

18 **FINDINGS OF FACT**

19 1. On or about October 24, 2012, Complainant Louise R. Bailey, M.Ed., R.N., in her
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
21 Consumer Affairs, filed Accusation No. 2013-313 against Sybil Michelle Shaw, aka Sybil
22 Michelle Kinion (Respondent) before the Board of Registered Nursing. (Accusation attached as
23 Exhibit A.)

24 2. On or about November 30, 1991, the Board of Registered Nursing (Board) issued
25 Registered Nurse License No. 472693 to Respondent. The Registered Nurse License expired on
26 October 31, 2009, and has not been renewed.
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1 3. On or about October 24, 2012, Respondent was served, by First Class Mail and
2 Certified Mail, copies of the Accusation No. 2013-313, Statement to Respondent, Notice of
3 Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5,
4 11507.6, and 11507.7) at Respondent's address of record which, pursuant to California Code of
5 Regulations, title 16, section 1409.1, is required to be reported and maintained with the Board.
6 Respondent's address of record was and is:

7 14560 M 89
8 Augusta, MI 49012.

9 4. Service of the Accusation was effective as a matter of law under the provisions of
10 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
11 124.

12 5. On or about November 7, 2012, the aforementioned documents were returned by the
13 U.S. Postal Service marked "Unable to Forward." The address on the documents was the same as
14 the address on file with the Board. Respondent failed to maintain an updated address with the
15 Board and the Board has made attempts to serve the Respondent at the address on file.
16 Respondent has not made herself available for service and therefore, has not availed herself of her
17 right to file a notice of defense and appear at hearing.

18 6. Government Code section 11506 states, in pertinent part:

19 (c) The respondent shall be entitled to a hearing on the merits if the respondent
20 files a notice of defense, and the notice shall be deemed a specific denial of all parts
21 of the accusation not expressly admitted. Failure to file a notice of defense shall
22 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
23 may nevertheless grant a hearing.

24 7. Respondent failed to file a Notice of Defense within 15 days after service upon her of
25 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 2013-
26 313.

27 8. California Government Code section 11520 states, in pertinent part:

28 (a) If the respondent either fails to file a notice of defense or to appear at the
 hearing, the agency may take action based upon the respondent's express admissions
 or upon other evidence and affidavits may be used as evidence without any notice to
 respondent.

9. Pursuant to its authority under Government Code section 11520, the Board finds Respondent is in default. The Board will take action without further hearing and, based on the relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as taking official notice of all the investigatory reports, exhibits and statements contained therein on file at the Board's offices regarding the allegations contained in Accusation No. 2013-313, finds that the charges and allegations in Accusation No. 2013-313, are separately and severally, found to be true and correct by clear and convincing evidence.

10. Taking official notice of its own internal records, pursuant to Business and Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation and Enforcement is \$1,207.50 as of November 27, 2012.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Sybil Michelle Shaw, aka Sybil Michelle Kinion has subjected her Registered Nurse License No. 472693 to discipline.

2. The agency has jurisdiction to adjudicate this case by default.

3. The Board of Registered Nursing is authorized to revoke Respondent's Registered Nurse License based upon the following violations alleged in the Accusation which are supported by the evidence contained in the Default Decision Evidence Packet in this case.:

a. Respondent is subject to disciplinary action under section 2761, subdivision (a)(4), of the Code, on the grounds of unprofessional conduct, in that on or about July 7, 2010, Respondent was disciplined by the Michigan Department of Community Health, Bureau of Health Professions, Board of Nursing (Michigan Nursing Board) for any act substantially related to the practice of nursing and demonstrated a propensity to be a danger to the public. Specifically, on or about July 7, 2010, in the administrative matter entitled *Sybil Michelle Shaw, R.N.*, the Michigan Nursing Board signed a Consent Order suspending Respondent's license Number 47-04-230650 effective and beginning August 6, 2010. A true and correct copy of the Consent Order and the Administrative Complaint are attached to Accusation No. 2013-313 as Exhibit A and incorporated herein by reference. Pursuant to the Consent Order, the suspension remained in effect until Respondent underwent a mental health evaluation from the Health Professional

1 Recovery Program, entered into a disciplinary, non-confidential monitoring agreement, and the
2 Health Professional Recovery Program endorsed Respondent as safe to practice or had
3 determined that Respondent did not require treatment monitoring. Pursuant to the Consent Order,
4 if Respondent's license remained suspended for a period longer than six months, Respondent was
5 required to file an application for reinstatement of the suspended license. If, Respondent's license
6 was automatically reinstated, Respondent would be placed on probation, under several
7 probationary conditions, for a period of one year, commencing on the effective date of the
8 reinstatement. Further, pursuant to the Consent Order, Respondent would be automatically
9 discharged from probation at the end of the probationary period provided she complied with the
10 terms of the Consent Order. Respondent was suspended by the Michigan Nursing Board from
11 August 6, 2010 to September 15, 2010. Respondent was on probation with the Michigan Nursing
12 Board from September 15, 2010 to January 6, 2012.

13 b. The circumstances of the Michigan Nursing Board's disciplinary action are as
14 follows:

15 (1) In January of 2008, Respondent terminated from employment as a nurse with
16 the Borgess Medical Center, in Kalamazoo, Michigan, for diverting narcotics and intravenous
17 Benadryl. The Borgess Medical Center reported Respondent's termination to the Michigan
18 Nursing Board. The Michigan Nursing Board referred Respondent to the Health Professional
19 Recovery Program.

20 (2) Between January 16, 2008, and January 21, 2008, Respondent was
21 hospitalized for psychiatric treatment and was diagnosed with major depressive disorder-single
22 episode, severe without psychotic features. Respondent stated that she had diverted medication
23 from the Borgess Medical Center with the intent to commit suicide due to multiple stressors in
24 her life.

25 (3) On January 24, 2008, Respondent self-reported to the Health Professional
26 Recovery Program upon the recommendation of the psychiatric treatment center.

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1 (4) On April 4, 2008, Respondent entered into a two-year, mental health
2 non-disciplinary Health Professional Recovery Program monitoring agreement. The terms of the
3 monitoring agreement required, in part, that Respondent submit to random drug screens; meet
4 quarterly with a psychiatrist; meet weekly for individual therapy; submit therapist reports and
5 monthly self-reports; abstain from all mood-altering substances; and abstain from obtaining,
6 possessing, prescribing, dispensing or administering controlled substances.

7 (5) On June 13, 2008, Respondent submitted a urine specimen that was
8 dilute, suggesting adulteration.

9 (6) On May 8, 2009, July 8, 2009, and August 31, 2009, Respondent
10 discussed with the Health Professional Recovery Program the possibility of early closure of her
11 monitoring file due to financial difficulties. The request was denied.

12 (7) On September 4, 2009, the Health Professional Recovery Program advised
13 Respondent of her non-compliance due to her failure to submit psychiatrist and therapist reports
14 since October 2008, and monthly self-reports from August 2008 and July 2009.

15 (8) On September 15, 2009, the Health Professional Recovery Program received a
16 faxed copy of two of Respondent's therapist reports and noticed that reports were dated in six-
17 month time periods rather than quarterly time periods, and appeared to include similar content.
18 Subsequently, the Health Professional Recovery Program contacted Respondent's therapist and
19 inquired about the validity of the reports, and determined that they were fraudulently submitted
20 by Respondent.

21 (9) Consequently, on or about November 18, 2009, the Health Professional
22 Recovery Program closed Respondent's file as non-compliant and forwarded the file to the
23 Michigan Nursing Board for disposition.

24 (10) On or about January 13, 2010, the Michigan Nursing Board filed an
25 Administrative Complaint against Respondent.

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ORDER

IT IS SO ORDERED that Registered Nurse License No. 472693, heretofore issued to Respondent Sybil Michelle Shaw, aka Sybil Michelle Kinion, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on March 8, 2013.

It is so ORDERED February 8, 2013



FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

51197485.DOC
DOJ Matter ID:LA2012507891

Attachment;
Exhibit A: Accusation

Exhibit A

Accusation

1 KAMALA D. HARRIS
Attorney General of California
2 GREGORY J. SALUTE
Supervising Deputy Attorney General
3 CRISTINA FELIX
Deputy Attorney General
4 State Bar No. 195663
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2455
6 Facsimile: (213) 897-2804
E-mail: Cristina.Felix@doj.ca.gov
7 Attorneys for Complainant

8 BEFORE THE
BOARD OF REGISTERED NURSING
9 DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

10
11 In the Matter of the Accusation Against:

Case No. 2013-313

12 SYBIL M. SHAW, AKA SYBIL
MICHELLE SHAW, AKA SYBIL
13 MICHELLE KINION
14 14560 M 89
Augusta, MI 49012

ACCUSATION

15 Registered Nurse License No. 472693

16 Respondent.

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18 Complainant alleges:

19 PARTIES

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
22 Consumer Affairs.

23 2. On or about November 30, 1991, the Board of Registered Nursing issued Registered
24 Nurse License Number 472693 to Sybil M. Shaw, aka Sybil Michelle Shaw, aka Sybil Michelle
25 Kinion (Respondent). The Registered Nurse License expired on October 31, 2009, and has not
26 been renewed.

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8.. Section 141 of the Code states:

"(a) For any licensee holding a license issued by a board under the jurisdiction of the department, a disciplinary action taken by another state, by any agency of the federal government, or by another country for any act substantially related to the practice regulated by the California license, may be a ground for disciplinary action by the respective state licensing board. A certified copy of the record of the disciplinary action taken against the licensee by another state, an agency of the federal government, or another country shall be conclusive evidence of the events related therein.

(b) Nothing in this section shall preclude a board from applying a specific statutory provision in the licensing act administered by that board that provides for discipline based upon a disciplinary action taken against the licensee by another state, an agency of the federal government, or another country."

DEFINITIONS

9. Benadryl is the trade name for the drug diphenhydramine, which is classified as an antihistamine, sedative, Anti-Parkinson, Anaphylaxis. In 50 mg capsules or tablets this is a prescription drug and considered a dangerous drug pursuant to section 4022 of the Code.

COSTS

10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

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1 CAUSE FOR DISCIPLINE

2 (Out-Of-State Discipline)

3 11. Respondent is subject to disciplinary action under section 2761, subdivision (a)(4), of
4 the Code, on the grounds of unprofessional conduct, in that on or about July 7, 2010, Respondent
5 was disciplined by the Michigan Department of Community Health, Bureau of Health
6 Professions, Board of Nursing (Michigan Nursing Board). Specifically, on or about July 7, 2010,
7 in the administrative matter entitled *Sybil Michelle Shaw, R.N.*, the Michigan Nursing Board
8 signed a Consent Order suspending Respondent's license Number 47-04-230650 effective and
9 beginning August 6, 2010. A true and correct copy of the Consent Order and the Administrative
10 Complaint are attached hereto as Exhibit A and incorporated herein by reference. Pursuant to the
11 Consent Order, the suspension remained in effect until Respondent underwent a mental health
12 evaluation from the Health Professional Recovery Program, entered into a disciplinary, non-
13 confidential monitoring agreement, and the Health Professional Recovery Program endorsed
14 Respondent as safe to practice or had determined that Respondent did not require treatment
15 monitoring. Pursuant to the Consent Order, if Respondent's license remained suspended for a
16 period longer than six months, Respondent was required to file an application for reinstatement of
17 the suspended license. If, Respondent's license was automatically reinstated, Respondent would
18 be placed on probation, under several probationary conditions, for a period of one year,
19 commencing on the effective date of the reinstatement. Further, pursuant to the Consent Order,
20 Respondent would be automatically discharged from probation at the end of the probationary
21 period provided she complied with the terms of the Consent Order.

22 12. Respondent was suspended by the Michigan Nursing Board from August 6, 2010 to
23 September 15, 2010. Respondent was on probation with the Michigan Nursing Board from
24 September 15, 2010 to January 6, 2012.

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1 13. The circumstances of the Michigan Nursing Board's disciplinary action are as
2 follows:

3 (a) In January of 2008, Respondent terminated from employment as a nurse with
4 the Borgess Medical Center, in Kalamazoo, Michigan, for diverting narcotics and intravenous
5 Benadryl. The Borgess Medical Center reported Respondent's termination to the Michigan
6 Nursing Board. The Michigan Nursing Board referred Respondent to the Health Professional
7 Recovery Program.

8 (b) Between January 16, 2008, and January 21, 2008, Respondent was
9 hospitalized for psychiatric treatment and was diagnosed with major depressive disorder-single
10 episode, severe without psychotic features. Respondent stated that she had diverted medication
11 from the Borgess Medical Center with the intent to commit suicide due to multiple stressors in
12 her life.

13 (c) On January 24, 2008, Respondent self-reported to the Health Professional
14 Recovery Program upon the recommendation of the psychiatric treatment center.

15 (d) On April 4, 2008, Respondent entered into a two-year, mental health
16 non-disciplinary Health Professional Recovery Program monitoring agreement. The terms of the
17 monitoring agreement required, in part, that Respondent submit to random drug screens; meet
18 quarterly with a psychiatrist; meet weekly for individual therapy; submit therapist reports and
19 monthly self-reports; abstain from all mood-altering substances; and abstain from obtaining,
20 possessing, prescribing, dispensing or administering controlled substances.

21 (e) On June 13, 2008, Respondent submitted a urine specimen that was
22 dilute, suggesting adulteration.

23 (f) On May 8, 2009, July 8, 2009, and August 31, 2009, Respondent
24 discussed with the Health Professional Recovery Program the possibility of early closure of her
25 monitoring file due to financial difficulties. The request was denied.

26 (g) On September 4, 2009, the Health Professional Recovery Program advised
27 Respondent of her non-compliance due to her failure to submit psychiatrist and therapist reports
28 since October 2008, and monthly self-reports from August 2008 and July 2009.

1 (h) On September 15, 2009, the Health Professional Recovery Program received a
2 faxed copy of two of Respondent's therapist reports and noticed that reports were dated in six-
3 month time periods rather than quarterly time periods, and appeared to include similar content.
4 Subsequently, the Health Professional Recovery Program contacted Respondent's therapist and
5 inquired about the validity of the reports, and determined that they were fraudulently submitted
6 by Respondent.

7 (i) Consequently, on or about November 18, 2009, the Health Professional
8 Recovery Program closed Respondent's file as non-compliant and forwarded the file to the
9 Michigan Nursing Board for disposition.

10 (j) On or about January 13, 2010, the Michigan Nursing Board filed an
11 Administrative Complaint against Respondent.

12 PRAYER

13 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
14 and that following the hearing, the Board of Registered Nursing issue a decision:

- 15 1. Revoking or suspending Registered Nurse License Number 472693, issued to Sybil
16 M. Shaw, aka Sybil Michelle Shaw, aka Sybil Michelle Kinion;
17 2. Ordering Sybil M. Shaw to pay the Board of Registered Nursing the reasonable costs
18 of the investigation and enforcement of this case, pursuant to Business and Professions Code
19 section 125.3;
20 3. Taking such other and further action as deemed necessary and proper.

21 DATED: OCTOBER 24, 2012

22 *for* LOUISE R. BAILEY, M.ED., RN
23 Executive Officer
24 Board of Registered Nursing
25 Department of Consumer Affairs
26 State of California
27 Complainant
28

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EXHIBIT A

STATE OF MICHIGAN
DEPARTMENT OF COMMUNITY HEALTH
BUREAU OF HEALTH PROFESSIONS
BOARD OF NURSING
DISCIPLINARY SUBCOMMITTEE

We certify that the foregoing is a true copy of
the original on file in the office of the
Department of Licensing & Regulatory Affairs
Bureau of Health Professions.

In the Matter of

SYBIL MICHELLE SHAW, R.N.
License Number: 47-04-230650

File Number: 47-09-114636
CONSENT ORDER AND STIPULATION

CONSENT ORDER

WHEREAS, an Administrative Complaint, hereafter Complaint, was issued on January 13, 2010, charging Sybil Michelle Shaw, R.N., hereafter Respondent, with having violated sections 16221(a), 16221(b)(iii) and 16221(b)(vi) of the Public Health Code, 1978 PA 368, as amended; MCL 333.1101 et seq; and

WHEREAS, Respondent neither admits nor denies the allegations of fact and law as set forth in the Complaint dated January 13, 2010, but agrees that the Disciplinary Subcommittee of the Michigan Board of Nursing, hereafter Disciplinary Subcommittee, may treat the allegations as true for purposes of this Consent Order, which finding shall have the same force and effect as if evidence and argument were presented in support of the allegations; and

WHEREAS, the Disciplinary Subcommittee has reviewed the Stipulation and, based upon the matters asserted therein, agrees that the public interest is best served by resolution of the outstanding Complaint; now, therefore,

IT IS HEREBY FOUND that the allegations of fact and law set forth in the Complaint are true, for purposes of this Consent Order, and constitute violations of sections 16221(a), 16221(b)(iii) and 16221(b)(vi) of the Public Health Code, supra.

Accordingly,

IT IS HEREBY ORDERED that for the aforesaid violations of the Public Health Code, Respondent's license to practice as a registered nurse in the state of Michigan is SUSPENDED for a minimum period of ONE DAY, commencing on the effective date of this Order. Said periods of suspension shall run concurrently.

IT IS FURTHER ORDERED that Respondent's license shall be automatically reinstated to a full and unlimited status upon receipt by the Department of Community Health, hereafter Department, of satisfactory written evidence from the Health Professional Recovery Program, hereafter Contractor, verifying that Respondent has undergone a mental health evaluation, has entered into a disciplinary, non-confidential monitoring agreement, hereafter monitoring agreement, AND that the Contractor has endorsed Respondent as safe to practice, or that the Contractor has determined that Respondent does not require treatment monitoring. It shall be Respondent's responsibility to contact the Contractor by telephone at (800) 453-3784, and to comply with the requests of the Contractor regarding submission to the required evaluation and entry into a monitoring agreement, if required. All costs associated with this process shall be the responsibility of Respondent. If the Contractor determines that Respondent is in need of treatment

STATE OF MICHIGAN-INGHAM COUNTY

We certify that the foregoing is a true copy of the original on file in the office of the Department of Licensing & Regulatory Affairs Bureau of Health Professions.

monitoring, Respondent shall enter into and shall comply with all terms of a monitoring agreement with the Contractor.

IT IS FURTHER ORDERED that Respondent shall ensure that a copy of the signed and fully executed monitoring agreement AND written confirmation that the Contractor has endorsed Respondent as safe to practice, OR written confirmation that Respondent is not in need of treatment monitoring, is provided by the Contractor to the Department of Community Health, Bureau of Health Professions, Sanction Monitoring, P.O. Box 30670, Lansing, MI 48909.

IT IS FURTHER ORDERED that, in the event that Respondent's license remains suspended for a period longer than six months, Respondent shall file an application for reinstatement of the suspended license, which shall be in accordance with sections 16245 and 16247 of the Public Health Code, supra. Further, in support of the application for reinstatement, Respondent shall supply clear and convincing evidence to the Michigan Board of Nursing, hereafter Board, that Respondent is of good moral character, is able to practice the profession with reasonable skill and safety, that it is in the public interest for Respondent to resume practice, and that Respondent has met the guidelines on reinstatement adopted by the Department.

IT IS FURTHER ORDERED that for the aforesaid violations of the Public Health Code, in the event that Respondent's license is automatically reinstated, Respondent shall be placed on PROBATION for a period of ONE YEAR, commencing on the effective date of automatic reinstatement. Reduction of the probationary period shall

only occur while Respondent is employed as a nurse. The terms of probation shall be as follows:

1. MONITORING AGREEMENT: Respondent shall, if applicable, comply fully with the terms of a monitoring agreement entered into with the Contractor.

If it is confirmed by the Contractor that Respondent has failed to comply with the terms of a monitoring agreement, the Contractor shall **immediately** notify the Department in writing.

To the extent that the terms of the monitoring agreement call for reports, Respondent shall submit all reports in the manner specified by the monitoring agreement.

All information and documentation acquired by the Contractor in developing and implementing the monitoring agreement required herein, including but not limited to urinalyses, reports of AA/NA attendance, reports of mental and physical evaluations, controlled substance logs, therapist reports, chemical dependency/substance abuse treatment facility or recovery program records or reports, shall be made available to the Department, upon request to establish Respondent's compliance or non-compliance with the monitoring agreement and this Order.

Upon Respondent's successful completion of the monitoring agreement, the Contractor shall promptly notify the Department in writing.

2. CONTINUING EDUCATION. Within one year from the effective date of this Order, Respondent shall successfully complete one continuing education course accepted by the Michigan Board of Nursing, hereafter Board, in the area of professional accountability and legal liability. This continuing education shall be completed during the probationary period, and **shall not** apply in computing Respondent's current continuing education requirements for license renewal.

Respondent shall seek and obtain pre-approval of the continuing education course from the Chairperson of the Board or the Chairperson's designee. Respondent may successfully complete "Professional Accountability

STATE OF MICHIGAN
We certify that the foregoing is a true copy of the original on file in the office of the Department of Licensing & Regulatory Affairs, Bureau of Health Professions.

& Legal Liability for Nurses" offered by the National Council of State Boards of Nursing, available at www.learningext.com or request pre-approval of a comparable continuing education course.

Respondent shall mail requests for approval of the continuing education and proof of successful completion of the continuing education to the Department at the address provided below.

3. EMPLOYER REPORTS: In the event Respondent is employed as a nurse, Respondent shall immediately provide copies of this Order and the Complaint dated January 13, 2010, to Respondent's employer and supervisor. Respondent's employer or supervisor shall be knowledgeable of Respondent's history and shall file reports with the Department, as further provided herein, advising of Respondent's work performance.

In the event Respondent, at any time, fails to comply with the minimal standards of acceptable and prevailing practice or appears unable to practice with reasonable skill and safety, the Department shall be immediately so notified by Respondent's employer or supervisor.

4. EMPLOYMENT CHANGE: Respondent shall report to the Department, in writing, any and all changes in Respondent's employment within 15 days of such change if Respondent's employment change requires Respondent to have a nursing license.

Respondent shall provide copies of this Order and the Complaint dated January 13, 2010, to each successor employer and supervisor, if the employment requires Respondent to have a nursing license. The successor employer or supervisor shall be knowledgeable of Respondent's history and shall continue to file reports with the Department advising of Respondent's work performance, as set forth above.

5. REPORT OF NON-EMPLOYMENT: If at any time during the period of probation, Respondent is not employed as a nurse, Respondent shall file a report of non-employment with the Department within 15 days after becoming unemployed. Respondent shall continue to file a report of non-employment on a quarterly basis until Respondent returns to employment as a nurse, at

STATE OF MICHIGAN-INGHAM COUNTY

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which time Respondent shall notify the Department of this fact within 15 days after returning to practice.

6. RESIDENCY AND PRACTICE OUTSIDE MICHIGAN: Periods of residency and practice outside Michigan shall not reduce the probationary period of this Order. Respondent shall report any changes of residency or practice outside Michigan no more than 15 days after the change occurs. Compliance with this provision does not satisfy the requirements of sections 16192(1) and 16221(g) of the Public Health Code, supra, regarding Respondent's duty to report name or mailing address changes to the Department.
7. COMPLIANCE WITH THE PUBLIC HEALTH CODE: Respondent shall comply with all applicable provisions of the Public Health Code and rules promulgated thereunder.
8. REPORTING PROCEDURE: Unless requiring immediate notification as indicated above, all reports required herein shall be filed on a quarterly basis, the first report to be filed at the end of the third month of probation, and subsequent reports to be filed every three months thereafter until Respondent is discharged from probation.

In addition to receiving reports as required herein, the Department or its authorized representative may periodically contact the reporting individuals or agencies to inquire of Respondent's progress.

Respondent shall direct all communications required by the terms of this Order to: Department of Community Health, Bureau of Health Professions, Sanction Monitoring, P.O. Box 30670, Lansing, MI 48909.

The timely filing of all information relating to this Order shall be Respondent's responsibility, and failure to file said information within the time limitations herein provided shall be deemed a violation of an order of the Disciplinary Subcommittee.

9. COSTS: Respondent shall be solely responsible for payment of all costs incurred in complying with the terms of this Order.

STATE OF MICHIGAN-INGHAM COUNTY

We certify that the foregoing is a true copy of the original on file in the office of the Department of Licensing & Regulatory Affairs Bureau of Health Professions.

IT IS FURTHER ORDERED that Respondent shall be automatically discharged from probation at the end of the probationary period, PROVIDED Respondent has complied with the terms of this Order and has not violated the Public Health Code.

IT IS FURTHER ORDERED that in the event Respondent violates any provision of this Order, and if such violation is deemed to constitute an independent violation of the Public Health Code or the rules promulgated thereunder, the Disciplinary Subcommittee may proceed to take disciplinary action pursuant to 1996 AACRS, R 338.1632 and section 16221(h) of the Public Health Code, supra.

IT IS FURTHER ORDERED that this Order shall be effective 30 days from the date signed by the Disciplinary Subcommittee, as set forth below.

Dated: 7/7/10

MICHIGAN BOARD OF NURSING

By: Jody DeFre

Chairperson, Disciplinary Subcommittee

STIPULATION

1. Respondent neither admits nor denies the allegations of fact and law as set forth in the Complaint dated January 13, 2010, but agrees that the Disciplinary Subcommittee shall treat the allegations as true for purposes of this Consent Order, which

STATE OF MICHIGAN-INGHAM COUNTY
We certify that the foregoing is a true copy of
the original on file in the office of the
Department of Licensing & Regulatory Affairs
Bureau of Health Professions.

finding shall have the same force and effect as if evidence and arguments were presented in support thereof.

2. Respondent understands and intends that by signing this Stipulation Respondent is waiving the right, pursuant to the Public Health Code, the rules promulgated thereunder, and the Administrative Procedures Act of 1969, 1969 PA 306, as amended; MCL 24.201 et seq., to require the Department to prove the charges set forth in the Complaint by presentation of evidence and legal authority, and to appear with an attorney and such witnesses as Respondent may desire to present a defense to said charges.

3. Respondent understands that the duration of a required monitoring agreement may exceed the period of probation set forth in the Consent Order. Respondent specifically agrees to abide by all terms of a monitoring agreement, if required.

4. Respondent hereby authorizes the individuals and entities required to report pursuant to the foregoing Consent Order, to release to the Department and the Department of Attorney General any and all information necessary for full compliance with the foregoing Consent Order and to assure protection of the public health, safety, and welfare.

5. Factors taken into consideration in the formulation of the within Consent Order are as follows:

Respondent admitted that she planned to commit suicide due to her life circumstances at the time. Respondent stated that she sought psychiatric help after a female law enforcement officer encouraged her

STATE OF MICHIGAN-INGHAM COUNTY

to do so. After being hospitalized and diagnosed with situational depression, Respondent self-reported to the Contractor and entered into a monitoring agreement.

Respondent stated that she complied with her monitoring agreement until she could no longer afford it since she did not have a job, had no insurance, and was living with a friend.

Concerning the false report, Respondent stated that the Contractor advised that she could not be released from the program early even though her drug screens had tested negative and could not afford therapy. Respondent stated that, out of frustration with the Contractor, she then took an old report, changed the date, but changed her mind about submitting it after she calmed down. Respondent stated that she thought she discarded the report.

Respondent was fully cooperative in resolving this matter.

6. Michelle M. Johnson, R.N., a member of the Board who supports this proposal, and the Department's representative are both free to discuss this matter with the Disciplinary Subcommittee and recommend acceptance of the resolution set forth in the foregoing Consent Order.

7. The foregoing Consent Order is approved as to form and substance by Respondent and the Department and may be entered as the final order of the Disciplinary Subcommittee in said cause.

STATE OF MICHIGAN-INGHAM COUNTY

We certify that the foregoing is a true copy of the original on file in the office of the Department of Licensing & Regulatory Affairs Bureau of Health Professions.

CONTINUED ON NEXT PAGE

8. The foregoing proposal is conditioned upon acceptance by the Disciplinary Subcommittee, Respondent and the Department expressly reserving the right to further proceedings should the Consent Order be rejected.

AGREED TO BY:

Melanie B. Brim
Melanie B. Brim, Director
Bureau of Health Professions
Department of Community Health
Dated: May 18, 2010

AGREED TO BY:

Sybil Michelle Shaw
Sybil Michelle Shaw, R.N.
Respondent
Dated: 5/15/10

This is the last and final page of a Consent Order and Stipulation in the matter of Sybil Michelle Shaw, R.N., File Number 47-09-114636, before the Disciplinary Subcommittee of the Michigan Board of Nursing, consisting of ten pages, this page included.

SR

STATE OF MICHIGAN-INGHAM COUNTY

We certify that the foregoing is a true copy of the original on file in the office of the Department of Licensing & Regulatory Affairs Bureau of Health Professions.

STATE OF MICHIGAN
DEPARTMENT OF COMMUNITY HEALTH
BUREAU OF HEALTH PROFESSIONS
BOARD OF NURSING
DISCIPLINARY SUBCOMMITTEE

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Department of Licensing & Regulatory Affairs
Bureau of Health Professions.

In the matter of

SYBIL MICHELLE SHAW, R.N.
License Number: 47-04-230650

File Number: 47-09-114636

ADMINISTRATIVE COMPLAINT

NOW COMES the Michigan Department of Community Health, hereafter Complainant, by Melanie B. Brim, Director, Bureau of Health Professions, and files this Complaint against Sybil Michelle Shaw, R.N., hereafter Respondent, alleging upon information and belief as follows:

1. The Michigan Board of Nursing, hereafter Board, is an administrative agency established by the Public Health Code, 1978 PA 368, as amended; MCL 333.1101 et seq. Pursuant to section 16226 of the Public Health Code, supra, the Board's Disciplinary Subcommittee is empowered to discipline licensees for violations of the Public Health Code.

2. Respondent is currently licensed to practice as a registered nurse in the state of Michigan.

3. Good moral character is defined at Section 1 of 1974 PA 38, as amended; MCL 338.41 et seq., as "the propensity of the person to serve the public in the licensed area in a fair, honest, and open manner."

4. Intravenous Benadryl is a prescription medication.

5. On January 14, 2008, Respondent was suspended from employment as a nurse with Borgess Medical Center, hereafter facility, in Kalamazoo, Michigan, for diverting narcotics and intravenous Benadryl from the facility. Subsequent to the facility's investigation, Respondent was terminated from facility employment. The facility reported Respondent's termination to Complainant pursuant to section 20175(5) of the Public Health Code, supra. (In lieu of pursuing disciplinary action, Complainant subsequently referred Respondent to the HPRP to continue non-disciplinary treatment monitoring.)

6. Between January 16, 2008, and January 21, 2008, Respondent was hospitalized for psychiatric treatment and was diagnosed with major depressive disorder-single episode, severe without psychotic features. Respondent stated that she had diverted medication from the facility with the intent to commit suicide due to multiple stressors in her life.

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7. On January 24, 2008, Respondent self-reported to the Health Professional Recovery Program, hereafter HPRP, upon the recommendation of the psychiatric treatment center. During intake assessment, Respondent denied diverting medication but admitted that she planned to divert in order to commit suicide.

8. On April 4, 2008, Respondent entered into a two-year, mental health non-disciplinary HPRP monitoring agreement. The terms of the monitoring agreement required, in part, that Respondent submit to random urine drug screens; meet quarterly with a psychiatrist; meet weekly for individual therapy; submit therapist reports and

monthly self-reports; abstain from all mood-altering substances; and no obtaining, possessing, prescribing, dispensing or administering controlled substances.

9. On June 13, 2008, Respondent submitted a urine specimen that was dilute, suggesting adulteration.

10. On May 8, 2009, July 8, 2009, and August 31, 2009, Respondent discussed with the HPRP the possibility of early closure of her monitoring file due to financial difficulties as a result of being unemployed. The HPRP denied Respondent's request for file closure.

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11. On September 4, 2009, the HPRP sent Respondent a letter of non-compliance due to her failure to submit psychiatrist and therapist reports since October 2008, and monthly self-reports from August 2008 and July 2009.

12. On September 15, 2009, the HPRP received a faxed copy of two of Respondent's therapist reports and noticed that reports were dated in six-month time periods rather than quarterly time periods, and appeared to include similar content. Subsequently, the HPRP contacted Respondent's therapist and inquired about the validity of the reports, and determined that they were fraudulently submitted by Respondent.

13. Consequently, on or about November 18, 2009, the HPRP closed Respondent's file as non-compliant and forwarded it to Complainant for disposition.

COUNT I

Respondent's conduct, as set forth above, evidences a conduct, practice or condition that impairs, or may impair, the ability to safely and skillfully practice the health profession, in violation of section 16221(a) of the Public Health Code, supra.

COUNT II

Respondent's conduct, as set forth above, indicates that Respondent suffers from a mental or physical inability reasonably related to and adversely affecting Respondent's ability to practice in a safe and competent manner, in violation of section 16221(b)(iii) of the Public Health Code, supra.

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COUNT III

Respondent's conduct, as set forth above in paragraph 12, evidences a lack of good moral character, in violation of section 16221(b)(vi) of the Public Health Code, supra.

WHEREFORE, Complainant requests that the within Complaint be served upon Respondent and that Respondent be offered an opportunity to show compliance with all lawful requirements for retention of the license. If compliance is not shown, Complainant further requests that formal proceedings be commenced pursuant to the Public Health Code, rules promulgated thereunder, and the Administrative Procedures Act of 1969, 1969 PA 306, as amended; MCL 24.201 et seq.

RESPONDENT IS HEREBY NOTIFIED that, pursuant to section 16231(7) of the Public Health Code, supra, Respondent has 30 days from the date of receipt of this Complaint to submit a written response to the allegations contained herein. The written response shall be submitted to Complainant, Melanie B. Brim, Director, Bureau of Health Professions, Department of Community Health, P.O. Box 30670, Lansing, MI 48909.

RESPONDENT IS FURTHER NOTIFIED that, pursuant to section 16231(8) of the Public Health Code, supra, Respondent's failure to submit a written response within 30 days, as noted above, shall be treated as an admission of the allegations contained herein and shall result in transmittal of this Complaint directly to the Board's Disciplinary Subcommittee for imposition of an appropriate sanction.

DATED: *January 13, 2010*

Melanie B. Brim
Melanie B. Brim, Director
Bureau of Health Professions

This is the last and final page of an Administrative Complaint in the matter of Sybil Michelle Shaw, R.N., File Number 47-09-114636, before the Disciplinary Subcommittee of the Michigan Board of Nursing, consisting of five pages, this page included.

SR

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